

# HOUSE BILL 1072

Q6, M1

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By: **Delegates Mizeur, Bobo, Carr, Frush, Luedtke, Nathan–Pulliam, Niemann,  
S. Robinson, and Washington**

Introduced and read first time: February 10, 2012

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Recordation and Transfer Taxes – Oil or Gas Mineral Interests**

3 FOR the purpose of clarifying that recordation and transfer taxes apply to an  
4 instrument of writing that conveys title to, or a leasehold interest in, an oil or  
5 gas mineral interest; increasing the State transfer tax rate that applies to an  
6 instrument of writing that conveys title to, or a leasehold interest in, an oil or  
7 gas mineral interest by a certain amount; defining certain terms; and generally  
8 relating to the application of recordation and transfer taxes to oil and gas  
9 mineral interests.

10 BY adding to

11 Article – Tax – Property  
12 Section 12–101(e–6), (f–1), and (f–2), 13–101(e–1), (f–1), and (f–2), and  
13 13–203(b)(6)  
14 Annotated Code of Maryland  
15 (2007 Replacement Volume and 2011 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Tax – Property  
18 Section 12–101(f) and 13–101(f)  
19 Annotated Code of Maryland  
20 (2007 Replacement Volume and 2011 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article – Tax – Property  
23 Section 12–102, 12–103(a) and (b)(1), 13–202, 13–203(a), and 13–209(d) and  
24 (d–1)(1) and (2)  
25 Annotated Code of Maryland  
26 (2007 Replacement Volume and 2011 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Tax – Property**

4 12–101.

5 **(E–6) “GAS” HAS THE MEANING STATED IN § 14–102(G) OF THE**  
6 **ENVIRONMENT ARTICLE.**

7 (f) (1) “Instrument of writing” means a written instrument that:

8 (i) conveys title to or creates or gives notice of a security  
9 interest in real property; or

10 (ii) creates or gives notice of a security interest in personal  
11 property.

12 (2) “Instrument of writing” includes:

13 (i) a deed or contract, **INCLUDING A DEED OR CONTRACT**  
14 **THAT CONVEYS TITLE TO AN OIL OR GAS MINERAL INTEREST;**

15 (ii) a mortgage, deed of trust, or other contract that creates an  
16 encumbrance on real property;

17 (iii) a lease of real property, **INCLUDING A LEASE OF AN OIL**  
18 **OR GAS MINERAL INTEREST;**

19 (iv) an assignment of a lessee’s interest in real property,  
20 **INCLUDING AN OIL OR GAS MINERAL INTEREST;**

21 (v) articles of transfer;

22 (vi) a security agreement;

23 (vii) articles of merger or other document which evidences a  
24 merger of foreign corporations, foreign partnerships, foreign limited liability  
25 companies, or foreign limited partnerships; and

26 (viii) articles of consolidation or other document which evidences  
27 a consolidation of foreign corporations.

28 **(F–1) “MINERAL INTEREST” HAS THE MEANING STATED IN § 15–1201(B)**  
29 **OF THE ENVIRONMENT ARTICLE.**

1           **(F-2) “OIL” HAS THE MEANING STATED IN § 14-102(H) OF THE**  
2 **ENVIRONMENT ARTICLE.**

3 12-102.

4           Except as otherwise provided in this title, recordation tax is imposed on an  
5 instrument of writing:

6                   (1)     recorded with the clerk of the circuit court for a county; or

7                   (2)     filed with the Department and described in § 12-103(d) of this  
8 title.

9 12-103.

10           (a)     (1)     The recordation tax rates under this section are applied to each  
11 \$500 or fraction of \$500 of consideration payable or of the principal amount of the debt  
12 secured for an instrument of writing.

13                   (2)     The consideration:

14                           (i)     includes the amount of any mortgage or deed of trust  
15 assumed by the grantee; and

16                           (ii)    subject to item (i) of this paragraph, includes only the  
17 amount paid or delivered in return for the sale of the property and does not include  
18 the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on  
19 the property.

20           (b)     (1)     The Mayor and City Council of Baltimore City or the governing  
21 body of a county may set, by law, the recordation tax rate in the county.

22 13-101.

23           **(E-1) “GAS” HAS THE MEANING STATED IN § 14-102(G) OF THE**  
24 **ENVIRONMENT ARTICLE.**

25           (f)     (1)     “Instrument of writing” means a written instrument that conveys  
26 title to, or a leasehold interest in, real property.

27                   (2)     “Instrument of writing” includes:

28                           (i)     a deed or contract, **INCLUDING A DEED OR CONTRACT**  
29 **THAT CONVEYS TITLE TO AN OIL OR GAS MINERAL INTEREST;**

1 (ii) a lease, **INCLUDING A LEASE OF AN OIL OR GAS MINERAL**  
2 **INTEREST;**

3 (iii) an assignment of a lessee's interest, **INCLUDING AN OIL OR**  
4 **GAS MINERAL INTEREST;**

5 (iv) articles of transfer;

6 (v) articles of merger or other document which evidences a  
7 merger of foreign corporations, foreign limited liability companies, foreign  
8 partnerships, or foreign limited partnerships; and

9 (vi) articles of consolidation or other document which evidences  
10 a consolidation of foreign corporations.

11 (3) "Instrument of writing" does not include:

12 (i) a mortgage, deed of trust, or other contract that creates an  
13 encumbrance on real property; or

14 (ii) a security agreement, as defined in § 12-101(h) of this  
15 article.

16 **(F-1) "MINERAL INTEREST" HAS THE MEANING STATED IN § 15-1201(B)**  
17 **OF THE ENVIRONMENT ARTICLE.**

18 **(F-2) "OIL" HAS THE MEANING STATED IN § 14-102(H) OF THE**  
19 **ENVIRONMENT ARTICLE.**

20 13-202.

21 Except as otherwise provided in this subtitle, a transfer tax is imposed on an  
22 instrument of writing:

23 (1) recorded with the clerk of the circuit court for a county; or

24 (2) filed with the Department and described in § 12-103(d) of this  
25 article.

26 13-203.

27 (a) (1) Except as provided in subsection (b) of this section, the rate of the  
28 transfer tax is 0.5% of the consideration payable for the instrument of writing.

29 (2) The consideration:

1 (i) includes the amount of any mortgage or deed of trust  
2 assumed by the grantee; and

3 (ii) subject to item (i) of this paragraph, includes only the  
4 amount paid or delivered in return for the sale of the property and does not include  
5 the amount of any debt forgiven or no longer secured by a mortgage or deed of trust on  
6 the property.

7 (b) **(6) THE RATE OF THE TRANSFER TAX IS 2% OF THE**  
8 **CONSIDERATION PAYABLE FOR AN INSTRUMENT OF WRITING THAT CONVEYS**  
9 **TITLE TO, OR A LEASEHOLD INTEREST IN, AN OIL OR GAS MINERAL INTEREST.**

10 13–209.

11 (d) Subject to subsections (d–1) and (e) of this section, for the fiscal year  
12 beginning July 1, 2002 and for each subsequent fiscal year, the balance of the revenue  
13 in the special fund, not required under subsection (b) of this section and not allocated  
14 to the General Fund under subsection (c)(1) of this section shall be allocated in the  
15 State budget as follows:

16 (1) (i) 75.15% for the purposes specified in Title 5, Subtitle 9 of the  
17 Natural Resources Article (Program Open Space); and

18 (ii) an additional 1% for Program Open Space, for land  
19 acquisition purposes as specified in § 5–903(a)(2) of the Natural Resources Article;

20 (2) 17.05% for the Agricultural Land Preservation Fund established  
21 under § 2–505 of the Agriculture Article;

22 (3) 5% for the Rural Legacy Program established under § 5–9A–01 of  
23 the Natural Resources Article; and

24 (4) 1.8% for the Heritage Conservation Fund established under §  
25 5–1501 of the Natural Resources Article.

26 (d–1) (1) In this subsection, “eligible purpose” means a purpose, program, or  
27 fund to which revenue in the special fund is required to be allocated under subsection  
28 (d) of this section.

29 (2) For any fiscal year beginning on or after July 1, 2010, but before  
30 July 1, 2013, for which funding is provided for an eligible purpose through the State  
31 Consolidated Capital Bond Funding Program or other bond enabling act:

32 (i) from the balance of the special fund, before the allocations  
33 under subsection (d) of this section are made, an amount shall be allocated to the  
34 General Fund of the State equal to the total amount of funding provided for eligible  
35 purposes through the bond enabling act; and

1                   (ii) except as otherwise expressly provided under the bond  
2 enabling act through which the funding is provided, the allocations provided under  
3 subsection (d) of this section shall be adjusted to reduce the amount that would  
4 otherwise be allocated for each eligible purpose by the amount of funding provided for  
5 that purpose under the bond enabling act.

6           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
7 July 1, 2012.